

37 Am. Jur. 2d Fraud and Deceit § 134

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Fraud and Deceit

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IV. False Representations

F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

4. Intent or Knowledge as Relating to Relief

§ 134. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  4, 13(2), 13(3)

False representations that are made with knowledge of their falsity and with a fraudulent intent are, of course, ground for relief in equity¹ as well as at law.² Such relief is also granted where statements are made recklessly, without regard to truth or falsity.³ As a general rule, however, courts of equity will grant appropriate relief in cases involving transactions arising from misstatements, even though no fraudulent intent on the part of the person making the representations is shown, and even though the person made them innocently, as a result of misapprehension or mistake.⁴ The elements of scienter, that is, knowledge of falsity and intention to obtain advantage by deceit, are not essential if the plaintiff seeks to prove that a misrepresentation constituted only equitable fraud.⁵

The reason generally given for the equitable rule as to innocent but false representations is that courts of equity may grant relief on the ground of constructive fraud such as would not authorize relief by way of an action of deceit at law.⁶ The equitable rule applies in all cases in which the jurisdiction of equity is invoked, so, for example, the rule applies where the relief sought is rescission⁷ or cancellation;⁸ or to have a constructive trust decreed.⁹

In at least one jurisdiction, in order to secure relief for fraud in equity, it must be established that representations were made with knowledge of their falsity, or with what is regarded as equivalent to such knowledge.¹⁰ Also, statutes providing for equitable remedies for fraudulent conduct may require proof of intentional conduct.¹¹

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Footnotes

- 1 Standard Motors Finance Co. v. Mitchell Auto Co., 173 Ark. 875, 293 S.W. 1026, 57 A.L.R. 877 (1927);
Ellenburg v. Edward K. Love Realty Co., 332 Mo. 766, 59 S.W.2d 625 (1933).
- 2 §§ 119 to 121.
- 3 § 122.
- 4 In re Brandywine Volkswagen, Ltd., 306 A.2d 24 (Del. Super. Ct. 1973), judgment aff'd, 312 A.2d 632 (Del.
1973); Kroninger v. Anast, 367 Mich. 478, 116 N.W.2d 863 (1962).
- 5 HMG/Courtland Properties, Inc. v. Gray, 749 A.2d 94 (Del. Ch. 1999); United Jersey Bank v. Kensey, 306
N.J. Super. 540, 704 A.2d 38 (App. Div. 1997).
As to the element of scienter, generally, see §§ 109 to 123.
- 6 Orr v. Rose, 1934 OK 604, 169 Okla. 387, 37 P.2d 300 (1934); Griffin v. Griffin, 125 Vt. 425, 217 A.2d
400 (1965).
- 7 § 135.
- 8 Am. Jur. 2d, Cancellation of Instruments §§ 13, 16.
- 9 Orr v. Rose, 1934 OK 604, 169 Okla. 387, 37 P.2d 300 (1934).
- 10 Baxter v. Davis, 252 Ky. 525, 67 S.W.2d 678 (1934).
- 11 Wal-Mart Stores, Inc. v. AAA Asphalt, Inc., 677 So. 2d 93 (Fla. 1st DCA 1996).

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